



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MTI/172463

PRELIMINARY RECITALS

Pursuant to a petition filed March 04, 2016, under Wis. Stat. § 49.85(4), and Wis. Stat. § 227.42, to review a decision by the Outagamie County Department of Human Services (the agency) in regard to Medical Assistance (MA), a hearing was held on April 14, 2016, at Appleton, Wisconsin.

The issue for determination is whether the Petitioner's appeal is timely.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], Child Care Specialist
Outagamie County Department of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. On April 3, 2013, the agency sent the Petitioner a manual Medicaid/BadgerCare Overpayment Notice, alleging an overpayment in the amount of \$561.49 for the period of January 1, 2013 through March 31, 2013. (Exhibit 13)

3. On May 2, 2013, the agency sent the Petitioner a repayment agreement for the \$541.49 claim. (Exhibit 15)
4. On May 13, 2013, the agency sent the Petitioner a manual Medicaid/BadgerCare overpayment Notice alleging an overpayment of \$167.29 for the period of April 1, 2013 through April 30, 2013. (Exhibit 14)
5. On June 4, 2013, the agency sent the Petitioner a repayment agreement for both the \$541.49 claim and the \$167.29 claim. (Exhibit 16)
6. The agency sent the Petitioner dunning notices on June 4, 2013, July 2, 2013, and on August 2, 2013. (Exhibit 7)
7. On December 9, 2013, the Outagamie County Circuit Court entered a judgement against the Petitioner for the full amounts of the overpayments, which totaled \$728.78. (Exhibit 9)
8. On January 17, 2014, the Public Assistance Collections Unit issued to the Petitioner a tax intercept notice, advising her that her state taxes would be intercepted to satisfy the \$728.78 debt. (Exhibit 20)
9. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on March 4, 2016.

DISCUSSION

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. A party has 30-days from the date of the letter/notice of tax intercept to file an appeal. Wis. Stat., §49.85(3)(a)2

The notice of tax intercept was sent to the Petitioner on January 17, 2014. She did not file an appeal until March 4, 2016, well past the 30-day appeal deadline. As such, there is no jurisdiction to review the merits of Petitioner's appeal of the tax intercept.

At the hearing, the Petitioner wanted to contest the underlying overpayment. She argued that she should not be held liable for the overpayment, because she received misinformation from an agency worker. However, an appeal of a negative action concerning medical assistance programs must be filed within 45 days of the date of the action. Wisconsin Stat. § 49.45(5); Income Maintenance Manual § 3.3.1. The overpayment notices were issued in April 2013 and May 2013. The Petitioner did not file her appeal until March 2016, again, well past the appeal deadline. As such, there is no jurisdiction to review the merits of the underlying overpayment determination.

CONCLUSIONS OF LAW

The petitioner's appeal is untimely and there is no jurisdiction to review the merits of her appeal.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 17th day of June, 2016.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 17, 2016.

Outagamie County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability